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09/738,433	12/15/2000	Richard A. Baker	SAA-35-1	9556

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SQUARE D COMPANY  
INTELLECTUAL PROPERTY DEPARTMENT  
1415 SOUTH ROSELLE ROAD  
PALATINE, IL 60067

EXAMINER

LE, HIEU C

ART UNIT PAPER NUMBER

2142

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/738,433

Applicant(s)

BAKER ET AL

Examiner

Hieu c. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-29 and 33-46 is/are rejected.
- 7) ☒ Claim(s) 9-11 and 30-32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. The amendment file 4/14/04 have been entered and made of record.
2. Applicant's arguments, see a remarks page 8, lines 1-22, filed 2/28/05, with respect to claims 1,22 have been fully considered and are persuasive with new ground of rejection.

***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper tames extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-46, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-40 of application # 09/595159. Although the conflicting claims are not identical, they are not patentably

distinct from each other because the claims have the same limitations and if allowed, would improperly extend the "right to exclude" already granted in the patent.

### **Claim Rejections - 35 U.S.C. § 103**

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8,12-19,22-26,29,33-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolff et al. ( US Patent 6,618,754 ) in view of Stewart et al. ( US Patent 6,061,742 ).

As to claim 1, Wolff discloses an interface module for communicating messages with a remote location and to provide access to an at least one intelligent electronic device (IED) operably connected to a communication network (Fig. 1), the interface module comprising:

a central processing unit (item 101);

an operating system operating the central processing unit (item 101);

a network interface for communicating with the communication network, (item 203);

a protocol task for processing the communication according to the protocol stack;

a set of application tasks communicating with the protocol task for responding to an

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incoming message from the communication network and initiating an outgoing message to the

communication network; and, an interconnection bus with an interface driver for communicating with the at least one IED browser (col. 2, lines 41-65) .

Wolff does not explicitly disclose a protocol stack communicates on the network .

Stewart discloses an adaptor network interface for connecting the adaptor to the network to exchange network data between the adaptor and network (col. 3, lines 26-35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Stewart's teachings to modify Wolff's method by using a protocol stack in order to provide an improved computer network adaptor allowing an improved network architecture for data exchange and administration of plurality of network computers.

As to claim 2, Wolff further discloses wherein the communication network is a worldwide Internet network using the Internet Protocol (IP) (Fig. 2).

As to claim 3, Wolff further discloses operating as a Web site on the Internet, the interface module having a global an address (col. 3, line 45).

As to claim 4, Wolff further discloses wherein the network interface is operably connected to a driver (Fig. 1, item 103).

As to claim 5, Wolff further discloses wherein the network interface is operably connected to an Ethernet driver (Fig. 1, item 103).

As to claim 6, Gosling further discloses wherein the network interface is

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operably connected to a SLIP/PPP driver ( col.5, line 19).

As to claim 7, Stewart further discloses wherein the protocol stack is a Transmission Control Protocol stack. (fig.6, col. 7, lines 1-25).

As to claim 8, Stewart further discloses wherein the set of application tasks includes a control task for processing the incoming and outgoing messages between a remote location and the at least one IED using an industrial communication standard Modbus over TCP/IP. col. 7, lines 1-25).

As to claim 12, Wolff further discloses Stewart further discloses wherein the set of application tasks comprises a HTTP server task for processing the Hypertext Transport Protocol HTTP to provide standard Web access to a remote Web browser ( col. 3, lines 53-57).

As to claim 13, Wolff further discloses wherein the HTTP server task accepts a connection; parses an HTTP message; and, calls the operating system to process the HTTP message ( col. 5, lines 5-57).

As to claim 14, Wolff further discloses 14. (Original) The interface module of claim 13 wherein the HTTP message allows a user at a remote location to view data within the at least one IED from the browser operably connected to the communication network( col. 3, lines 53-57).

As to claim 15, Wolff further discloses wherein the HTTP message allows a user at a remote location to write data within the at least one IED from the browser operably connected to the communication network (Fig. 2,)

As to claim 16, Wolff further discloses wherein the set of application tasks comprises a FTP server task for processing a File Transfer Protocol (FTP) ( col. 3, lines 53-57).

As to claim 17, Wolff further discloses wherein the FTP server task accepts a connection; parses an FTP message; and, calls the operating system to process the FTP message ( col. 4, lines 57-63).

As to claim 18, Wolff further discloses wherein the FTP message allows a user at a remote location to download a file for updating the operating software within the at least one IED through the Internet ( col. 5, lines 5-57).

As to claim 19, Wolff further discloses wherein the FTP message allows a user at a remote location to upload a file for obtaining data records from the at least one (IED) through the Internet ( col. 3, lines 53-57).

Claim 22 is a system analogous to those of claim 1, arguments analogous to those applied to claim 1 are applied to claim 22.

As to claims 23-24, refer to claims 2-3 rejection.

As to claim 25, Wolff further discloses wherein the interface module comprises a network driver for receiving the message from the Web browser on the Internet and for sending a response back to the Web browser (fig. 2, col. 5, lines 31-67).

As to claim 26, refer to claim 7 rejection.

As to claim 29, refer to claim 8 rejection.

As to claim 33, refer to claim 16 rejection.

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As to claim 34, refer to claim 17 rejection.

As to claim 35, refer to claim 18 rejection.

As to claim 36, refer to claim 19 rejection.

As to claim 37, refer to claim 12 rejection.

As to claim 38, refer to claim 13 rejection.

As to claim 39, Wolff further discloses wherein the HTTP message allows a user at the remote location to view the electrical network control system from a browser connected to the Internet (col. 5, lines 45-50).

As to claim 40, Wolff further discloses wherein the HTTP message allows a user at the remote location to write to the electrical network control system from a browser connected to the Internet (Fig. 3B, col. 7, lines 45-50).

As to claim 41, Wolff further discloses wherein the HTTP message allows a user at the remote location to view IED data from a browser connected to the Internet (Fig. 4B, col. 9, lines 1-11).

As to claim 42, Wolff further discloses wherein the HTTP message allows a user at the remote location to write IED data from a browser connected to the Internet (col. 9, lines 1-11).

As to claims 43 & 44, Wolff further discloses wherein a Java message allows a user at the remote location to view IED data from a browser connected to the Internet, and wherein a Java message allows a user at the remote location to write IED data from a browser connected to the Internet [a pc is connected, which is used as an Internet server and prepares the appropriate application in the form of pre-configure HTML



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pages under the use of Java applets. Access is now realized with a commercially available web browser, which executes the applets (Internet) (col. 5, line 1-col. 6, line 67)].

As to claim 45, Wolff further discloses wherein an Active X message allows a user at the remote location to view IED data from a browser connected to the Internet (col. 9, lines 1-11).

As to claim 46, Wolff further discloses wherein an Active X message allows a user at the remote location to write IED data from a browser connected to the Internet (col. 9, lines 1-11).

7. Claims 20-21, 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolff et al. ( US Patent 6,618,754 ) in view of Stewart et al.(US Patent 6,061,742 ) as applied to claim 1 above and further in view of Hammond et al. ( US Patent 5,915,087).

As to claims 20 & 21, neither Wolff nor Stewart disclose a dual TCP/IP stack and wherein the dual TCP/IP stack comprises a first stack capable of handling a broad range of TCPX messages and a second stack capable of handling a less broad range of TCPX messages more quickly than the first stack is capable of handling the broad range of TCP/IP messages.

Hammond discloses a proxy interface with networking software to direct communication stack to monitor connection messages between client and server (Fig. 3, col. 3, lines 50-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Hammond's teachings to modify the combined system of Wolff and Stewart by using a dual stack in order to processing multilevel checking of the messages without confusing the processes attempting to communication.

As to claims 27-28, refer to claims 20-21 rejection.

***Allowable Subject Matter***

8. Claims 9-11,30-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 9 depends on claim 8.

Claim 30 depends on claim 29.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu Le whose telephone number is (571) 272-3897. The examiner can normally be reached on Monday to Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey, can be reached on (571) 272-3897. The fax phone number for this Group is (703) 308-9051.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Hieu Le

A handwritten signature in black ink, appearing to read "Jack Harvey".

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